

PROPOSED AMENDMENT

SB 7 # 7

DIGEST

Marion County capital improvement board. Establishes an additional professional sports development area in Marion County to capture state and local revenue for capital improvements. Provides for the issuance of indebtedness to finance a multipurpose soccer stadium.

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT concerning economic development and to
- 3 make an appropriation.
- 4 Page 7, between lines 3 and 4, begin a new paragraph and insert:
- 5 "SECTION 4. IC 6-9-13-1, AS AMENDED BY P.L.214-2005,
- 6 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b),
- 8 the city-county council of a county that contains a consolidated first
- 9 class city may adopt an ordinance to impose an excise tax, known as
- 10 the county admissions tax, for the privilege of attending, before January
- 11 1, 2041, any event and, after December 31, 2040, any professional
- 12 sporting event:
- 13 (1) held in a facility financed in whole or in part by:
- 14 (A) bonds or notes issued under IC 18-4-17 (before its repeal
- 15 on September 1, 1981), IC 36-10-9, or IC 36-10-9.1; or
- 16 (B) a lease or other agreement under IC 5-1-17 **or**
- 17 **IC 36-7-31.5; and**
- 18 (2) to which tickets are offered for sale to the public by:
- 19 (A) the box office of the facility; or
- 20 (B) an authorized agent of the facility.
- 21 (b) The excise tax imposed under subsection (a) does not apply to
- 22 the following:
- 23 (1) An event sponsored by an educational institution or an
- 24 association representing an educational institution.
- 25 (2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(c) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) If a city-county council adopts an ordinance under subsection (a) or section 2 of this chapter prior to June 1, the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) or section 2 of this chapter on or after June 1, the county admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted."

Page 17, after line 40, begin a new paragraph and insert:

"SECTION 12. IC 36-7-31.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 31.5. Additional Professional Sports Development Area in a County Containing a Consolidated City

Sec. 1. (a) This chapter applies only to a county having a consolidated city.

(b) The authority for the creation of a professional sports development area under this chapter is in addition to the authority for the creation of a professional sports development area under IC 36-7-31.

Sec. 2. As used in this chapter, "bonds" means bonds, notes, or other evidence of indebtedness.

Sec. 3. As used in this chapter, "budget agency" means the budget agency created by IC 4-12-1.

Sec. 4. As used in this chapter, "budget committee" means the budget committee established by IC 4-12-1-3.

Sec. 5. As used in this chapter, "capital improvement" means any facility or complex of facilities established as part of an additional professional sports development area under section 16 of this chapter.

Sec. 6. As used in this chapter, "capital improvement board" refers to the capital improvement board of managers created by IC 36-10-9-3.

1 **Sec. 7. As used in this chapter, "city" refers to the city of**
2 **Indianapolis, Indiana.**

3 **Sec. 8. As used in this chapter, "commission" refers to the**
4 **metropolitan development commission acting as the redevelopment**
5 **commission of a consolidated city.**

6 **Sec. 9. As used in this chapter, "covered taxes" means the**
7 **following:**

8 **(1) The state gross retail tax imposed under IC 6-2.5-2-1 or**
9 **use tax imposed under IC 6-2.5-3-2, including any of these**
10 **taxes paid by any contractor for materials used in the**
11 **construction of any facility located in the tax area, regardless**
12 **of where the materials are purchased.**

13 **(2) An adjusted gross income tax imposed under IC 6-3-2-1 on**
14 **an individual living in the tax area, an individual working in**
15 **the tax area, and a contractor that constructs any facility**
16 **located in the tax area to the extent that any adjusted gross**
17 **income is derived from the construction of any facility located**
18 **in the tax area.**

19 **(3) A tax imposed under IC 6-3.6 on an individual living in the**
20 **tax area, an individual working in the tax area, and a**
21 **contractor that constructs any facility located in the tax area**
22 **to the extent that any adjusted gross income is derived from**
23 **the construction of any facility located in the tax area.**

24 **Sec. 10. As used in this chapter, "department" refers to the**
25 **department of state revenue.**

26 **Sec. 11. As used in this chapter, "facility" means all or any part**
27 **of one (1) or more buildings, structures, or improvements**
28 **constituting a capital improvement. The term refers to and**
29 **includes a capital improvement.**

30 **Sec. 12. As used in this chapter, "facilities authority" refers to**
31 **the county convention and recreational facilities authority created**
32 **by IC 36-10-9.1.**

33 **Sec. 13. As used in this chapter, "tax area" means a geographic**
34 **area established by a commission as an additional professional**
35 **sports development area under section 20 of this chapter.**

36 **Sec. 14. As used in this chapter, "taxpayer" means a person that**
37 **is liable for a covered tax.**

38 **Sec. 15. (a) The general assembly finds the following:**

39 **(1) Marion County and municipalities located in Marion**
40 **County face unique and distinct challenges and opportunities**

1 related to economic development issues associated with the
2 construction of facilities that would host professional soccer
3 and other sporting and entertainment events in the city.

4 (2) A unique approach is required to ensure that the facilities
5 can be maintained to allow Marion County and those
6 municipalities to meet these challenges and opportunities.

7 (3) The powers and responsibilities provided to Marion
8 County, the city, the facilities authority, and the capital
9 improvement board by this chapter are appropriate and
10 necessary to carry out the public purposes of encouraging and
11 fostering economic development in central Indiana and
12 constructing facilities that would host professional soccer and
13 other sporting and entertainment events in the city.

14 (4) Encouragement of economic development in central
15 Indiana will:

16 (A) generate significant economic activity, which may
17 attract new businesses and encourage existing businesses
18 to remain or expand in central Indiana;

19 (B) promote central Indiana to residents outside Indiana,
20 which may attract residents outside Indiana and new
21 businesses to relocate to central Indiana;

22 (C) protect and increase state and local tax revenues; and

23 (D) encourage overall economic growth in central Indiana
24 and in Indiana.

25 (b) Marion County faces unique challenges in the development
26 of infrastructure and other facilities necessary to promote
27 economic development:

28 (1) as a result of its need to rely on sources of revenue other
29 than property taxes;

30 (2) due to the large number of tax exempt properties located
31 in Marion County;

32 (3) because the city is the seat of state government and
33 Marion County government; and

34 (4) because Marion County is home to multiple institutions of
35 higher education and the site of numerous state and regional
36 nonprofit corporations.

37 (c) Economic development benefits the health and welfare of the
38 people of Indiana, is a public use and purpose for which public
39 money may be spent, and is of public utility and benefit.

40 Sec. 16. (a) A commission may establish as part of an additional

professional sports development area any facility or complex of facilities that is:

- (1) used to hold a professional sporting event, and which in addition, may be used to hold other entertainment events, including any publicly owned parking garage, plaza, or infrastructure that is constructed or renovated in connection with the construction of the facility used to hold a professional sporting event;
- (2) used in the training of a team engaged in professional sporting events;
- (3) used in whole or in part to manage and operate the professional team that would participate in the facility used to hold a professional sporting event; or
- (4) a mixed use development, consisting, in part, of retail space, office space, apartment dwelling units, and one (1) or more hotels.

The tax area may include a facility described in this subsection and any parcel of land on which the facility is located. An area may contain noncontiguous tracts of land within the county. The area must be separate from other professional sports development areas established under IC 36-7-31.

(b) Only the facilities described in subsection (a)(1) that are included within the additional professional sports development area may be financed with debt issued by or assumed by the capital improvement board, the facilities authority, or a political subdivision.

Sec. 17. (a) A tax area must be initially established before July 1, 2021, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area.

(b) In establishing or changing the terms of the tax area or revising the terms governing the tax area, the commission must make the following findings instead of the findings required for the establishment of economic development areas:

- (1) That a project to be undertaken or that has been undertaken in the tax area is for a facility.
- (2) That the project to be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(3) That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

Sec. 18. (a) Upon adoption of a resolution establishing a tax area under section 20 of this chapter, the commission shall submit the resolution to the budget committee for review.

(b) Upon adoption of a resolution changing the boundaries of a tax area under section 20 of this chapter, the commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county in which the tax area is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the tax area, including the following:

(i) The estimated economic benefits and costs incurred by the tax, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the tax area.

(c) Upon completion of the actions required by subsection (b), the commission shall submit the resolution to the budget committee for review.

Sec. 19. (a) The budget agency must approve the resolution before the covered taxes may be allocated under section 20 of this chapter.

(b) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The project specified in the resolution is economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the tax area established under this chapter.

(2) The political subdivisions affected by the project specified

1 in the resolution have committed significant resources toward
2 completion of the improvement.

3 (c) Revenues from the tax area may not be allocated until the
4 budget agency approves the resolution.

5 (d) In addition to the requirements under subsections (a) and
6 (c), covered taxes may not be allocated unless:

7 (1) the commission has established a tax area under section 20
8 of this chapter;

9 (2) the budget committee has reviewed the resolution;

10 (3) the:

11 (A) capital improvement board; and

12 (B) a professional soccer team that is part of Major League
13 Soccer;

14 have entered into an agreement of at least twenty-five (25)
15 years;

16 (4) the city-county council has adopted an ordinance to
17 impose an admissions tax under IC 6-9-13;

18 (5) the capital improvement board has adopted a resolution to
19 apply revenue collected in the tax area and transferred to the
20 capital improvement board from imposition of:

21 (A) an innkeeper's tax under IC 6-9-8; and

22 (B) a food and beverage tax under IC 6-9-12;

23 to the bond financing or lease financing of a project described
24 in section 16(a)(1) of this chapter;

25 (6) the owner or owners of the professional soccer team
26 described in subdivision (3)(B) have provided at least twenty
27 percent (20%) of the cost of the project to construct the
28 facility that will be used to host professional sporting events;

29 (7) the capital improvement board has adopted a resolution
30 accepting responsibility for the construction, operation, and
31 management of the facility that will be used to host
32 professional sporting events; and

33 (8) the Indiana finance authority conducts a feasibility study
34 that demonstrates that the proposed project related to the
35 proposed tax area will protect or increase the state tax base
36 and revenues.

37 **Sec. 20. (a) A tax area must be established by resolution. A**
38 **resolution establishing a tax area must provide for the allocation**
39 **of covered taxes attributable to a taxable event or covered taxes**
40 **earned in the tax area or by individuals living in the tax area to the**

1 additional professional sports development area fund established
 2 for the county. The allocation provision must apply to the part of
 3 the tax area covered by this section. The resolution must provide
 4 that the tax area terminates not later than twenty-five (25) years
 5 after the first allocation of covered taxes from the tax area.

6 (b) All of the salary, wages, bonuses, and other compensation
 7 that are:

8 (1) paid during a taxable year to a professional athlete for
 9 professional athletic services;

10 (2) taxable in Indiana; and

11 (3) earned in the tax area;

12 shall be allocated to the tax area if the professional athlete is a
 13 member of a team that plays the majority of the professional
 14 athletic events that the team plays in Indiana in the tax area.

15 (c) The total amount of state revenue captured by the tax area
 16 may not exceed eight million dollars (\$8,000,000) per year for not
 17 more than twenty-five (25) years after the first allocation of
 18 covered taxes from the tax area.

19 (d) The resolution establishing the tax area must designate the
 20 facilities and the sites of the facilities, for which the tax area is
 21 established and covered taxes will be used.

22 (e) The department may adopt rules under IC 4-22-2 and
 23 guidelines to govern the allocation of covered taxes to a tax area.

24 Sec. 21. (a) When the commission adopts an allocation
 25 provision, the commission shall notify the department by certified
 26 mail of the adoption of the provision and shall include with the
 27 notification a complete list of the following:

28 (1) Employers in the tax area.

29 (2) Street names and the range of street numbers of each
 30 street in the tax area.

31 The commission shall update the list before July 1 of each year.

32 (b) Taxpayers operating in the tax area shall report annually, in
 33 the manner and in the form prescribed by the department,
 34 information that the department determines necessary to calculate
 35 the salary, wages, bonuses, and other compensation:

36 (1) that are:

37 (A) paid during a taxable year to a professional athlete for
 38 professional athletic services;

39 (B) taxable in Indiana; and

40 (C) earned in the tax area; or

1 (2) that are:

2 (A) paid during a taxable year to a taxpayer other than a
3 professional athlete for professional athletic services; and

4 (B) earned in the tax area.

5 (c) A taxpayer operating in the tax area that files a consolidated
6 tax return with the department shall also file annually an
7 informational return with the department for each business
8 location of the taxpayer within the tax area.

9 (d) If a taxpayer fails to report the information required by this
10 section or file an informational return required by this section, the
11 department shall use the best information available in calculating
12 the amount of covered taxes attributable to a taxable event in a tax
13 area or covered taxes from income earned in a tax area or by
14 individuals living in the tax area.

15 Sec. 22. An additional professional sports development area
16 fund for the county is established. The fund shall be administered
17 by the department. Money in the fund does not revert to the state
18 general fund at the end of a state fiscal year.

19 Sec. 23. Covered taxes attributable to a tax area approved under
20 section 20 of this chapter shall be deposited in the additional
21 professional sports development area fund for the county. If the
22 written agreement to be entered into under section 38 of this
23 chapter is not entered into before July 1, 2021, all covered taxes in
24 the additional professional sports development area fund for the
25 county attributable to covered taxes described in:

26 (1) section 9(1) and 9(2) of this chapter shall revert to the state
27 general fund on July 1, 2021; and

28 (2) section 9(3) of this chapter shall be distributed
29 proportionately to the funds and the political subdivisions that
30 would have received such covered taxes if the covered taxes
31 had not been allocated to the tax area under this chapter.

32 Sec. 24. On or before the twentieth day of each month following
33 the month in which the written agreement is entered into under
34 section 38 of this chapter, all amounts on deposit in the additional
35 professional sports development area fund for the county are
36 appropriated for and shall be distributed to the capital
37 improvement board.

38 Sec. 25. The department shall notify the county auditor of the
39 amount of taxes to be distributed to the capital improvement
40 board.

1 **Sec. 26.** All distributions from the additional professional sports
2 development area fund for the county shall be made by warrants
3 issued by the auditor of state to the treasurer of state ordering
4 those payments to the capital improvement board.

5 **Sec. 27.** The capital improvement board may use money
6 distributed from the additional professional sports development
7 area fund to pay the cost of operation and maintenance of, or to
8 construct, renovate, and equip, a capital improvement, other than
9 the capital improvements set forth in section 16(a)(2) through
10 16(a)(4) of this chapter, including the financing or refinancing of
11 a capital improvement or the payment of lease payments for a
12 capital improvement, other than the capital improvements set forth
13 in section 16(a)(2) through 16(a)(4) of this chapter.

14 **Sec. 28.** All capital improvements financed under this chapter
15 are subject to the provisions of 25 IAC 5 concerning equal
16 opportunities for minority business enterprises, women's business
17 enterprises, and veteran or disabled business enterprises to
18 participate in procurement and contracting processes. The goals
19 for participation are the following:

20 (1) By minority business enterprises, fifteen percent (15%).

21 (2) By women's business enterprises, eight percent (8%).

22 (3) By veteran or disabled business enterprises, three percent
23 (3%).

24 These goals must be consistent with the goals of delivering the
25 project on time and within the budgeted amount and, insofar as
26 possible, using Indiana businesses for employees, goods, and
27 services. In fulfilling the goals, historical precedents in the same
28 market must be taken into account.

29 **Sec. 29.** The capital improvement board shall repay to the
30 additional professional sports development area fund any amount
31 that is distributed to the capital improvement board and used for
32 a purpose that is not described in section 27 of this chapter. The
33 department shall distribute the covered taxes repaid to the
34 additional professional sports development area fund under this
35 section proportionately to the funds and the political subdivisions
36 that would have received the covered taxes if the covered taxes had
37 not been allocated to the tax area under this chapter.

38 **Sec. 30. (a)** Before a lease of a capital improvement located in a
39 tax area may be entered into by the facilities authority and the
40 capital improvement board, the capital improvement board must

1 find that the lease rental provided for is fair and reasonable.

2 (b) A lease of a capital improvement from the facilities authority
3 to the capital improvement board:

4 (1) may not have a term exceeding twenty-five (25) years;

5 (2) may not require payment of lease rental for a newly
6 constructed capital improvement or for improvements to an
7 existing capital improvement until the capital improvement or
8 improvements have been completed and are ready for
9 occupancy;

10 (3) may provide for the responsibility for operation and
11 maintenance of the capital improvements, including the
12 retention of the revenues from the operation and maintenance
13 of the capital improvements and the related obligations of the
14 sublessee or sublessees as set forth in the written agreement
15 to be entered into under section 38 of this chapter;

16 (4) must provide that the facilities authority has no
17 responsibility to fund the ongoing maintenance and
18 operations of the capital improvement;

19 (5) may contain provisions:

20 (A) allowing the capital improvement board to continue to
21 operate an existing capital improvement until completion
22 of the improvements, reconstruction, or renovation; and

23 (B) requiring payment of lease rentals for an existing
24 capital improvement being used, reconstructed, or
25 renovated;

26 (6) may contain an option to renew the lease for the same or
27 shorter term on the conditions provided in the lease;

28 (7) must contain an option for the capital improvement board
29 to purchase the capital improvement upon the terms stated in
30 the lease during the term of the lease for a price equal to the
31 amount required to pay all indebtedness incurred on account
32 of the capital improvement, including indebtedness incurred
33 for the refunding of that indebtedness;

34 (8) may be entered into before the acquisition or construction
35 of a capital improvement;

36 (9) subject to IC 36-10-9-11, may provide that the lease rental
37 payments by the capital improvement board may be made
38 from any one (1) or more of the following sources:

39 (A) revenue captured under this chapter;

40 (B) tax increment revenues collected for lease rental

- 1 payments under IC 36-7-15.1-26 or IC 36-7-15.1-26.2;
- 2 (C) net revenues of the capital improvement;
- 3 (D) any funds received and to be applied by the capital
- 4 improvement board under section 35 of this chapter;
- 5 (E) any funds received and to be applied by the capital
- 6 improvement board under section 36 of this chapter;
- 7 (F) any funds received and to be applied by the capital
- 8 improvement board under section 37 of this chapter; and
- 9 (G) any other funds available to the capital improvement
- 10 board; and
- 11 (10) may contain any other terms the capital improvement
- 12 board determines to be appropriate.

13 **Sec. 31.** This chapter contains full and complete authority for
 14 leases between the facilities authority and the capital improvement
 15 board. No law, procedure, proceedings, publications, notices,
 16 consents, approvals, orders, or acts by the facilities authority or the
 17 capital improvement board or any other officer, department,
 18 agency, or instrumentality of the state or any political subdivision
 19 is required to enter into any lease, except as prescribed in this
 20 chapter.

21 **Sec. 32.** If the lease provides for a capital improvement or
 22 improvements to the capital improvement to be constructed by the
 23 facilities authority, the plans and specifications shall be submitted
 24 to and approved by the capital improvement board and all agencies
 25 designated by law to pass on plans and specifications for public
 26 buildings.

27 **Sec. 33.** The facilities authority and the capital improvement
 28 board may enter into common wall (party wall) agreements or
 29 other agreements concerning easements or licenses. The capital
 30 improvement board and any sublessee may enter into common wall
 31 (party wall) agreements or other agreements concerning easements
 32 or licenses. The capital improvement board shall record such an
 33 agreement with the recorder of the county.

34 **Sec. 34. (a)** The capital improvement board may lease for a
 35 nominal lease rental, or, subject to any sublease between the
 36 capital improvement board and a sublessee, sell to the facilities
 37 authority, one (1) or more capital improvements or parts of a
 38 capital improvement or land upon which a capital improvement is
 39 located or is to be constructed.

40 **(b)** Any lease of all or a part of a capital improvement by the

1 capital improvement board to the facilities authority must be for
2 a term equal to the term of the lease of that capital improvement
3 back to the capital improvement board.

4 (c) Subject to any sublease between the capital improvement
5 board and a sublessee, the capital improvement board may sell
6 property to the facilities authority for the amount the capital
7 improvement board determines to be in the best interest of the
8 capital improvement board, which amount may be paid from the
9 proceeds of bonds of the facilities authority.

10 Sec. 35. (a) The capital improvement board may adopt a
11 resolution to apply all or a portion of the county innkeeper's tax
12 collected under IC 6-9-8-3 in the tax area to the payment of lease
13 rentals by the capital improvement board under a lease entered
14 into under section 30 of this chapter, if the capital improvement
15 board determines that the use of the innkeeper's tax will not impair
16 the rights and remedies of holders of any bonds or other
17 obligations existing at the time of the determination.

18 (b) If there is an increase in the rate at which the county
19 innkeeper's tax is imposed or a portion of the county innkeeper's
20 tax is extended beyond the date on which it would otherwise expire,
21 any county innkeeper's tax collected in the tax area, as a result and
22 to the extent of the increase in the rate or as a result of the
23 extension of the county innkeeper's tax and to the extent of the rate
24 extended, shall be applied to the payment of lease rentals by the
25 capital improvement board under a lease entered into under
26 section 30 of this chapter.

27 Sec. 36. (a) The capital improvement board may adopt a
28 resolution to apply all or a portion of the county food and beverage
29 tax collected under IC 6-9-12-8 in the tax area to the payment of
30 lease rentals by the capital improvement board under a lease
31 entered into under section 30 of this chapter, if the capital
32 improvement board determines that the use of the county food and
33 beverage tax will not impair the rights and remedies of holders of
34 any bonds or other obligations existing at the time of the
35 determination.

36 (b) If there is an increase in the rate at which the county food
37 and beverage tax is imposed or a portion of the county food and
38 beverage tax is extended beyond the date on which it would
39 otherwise expire, any county food and beverage tax collected in the
40 tax area, as a result and to the extent of the increase in the rate or

1 as a result of the extension of the county food and beverage tax and
2 to the extent of the rate extended, shall be applied to the payment
3 of lease rentals by the capital improvement board under a lease
4 entered into under section 30 of this chapter.

5 Sec. 37. The capital improvement board may adopt a resolution
6 to apply all or a portion of the county admissions tax collected
7 under IC 6-9-13-2 by or at the facility or complex of facilities that
8 is used to hold a professional sporting event to the payment of lease
9 rentals by the capital improvement board under a lease entered
10 into under section 30 of this chapter, if the capital improvement
11 board determines that the use of the county admissions tax will not
12 impair the rights and remedies of holders of any bonds or other
13 obligations existing at the time of the determination.

14 Sec. 38. (a) The facilities authority may issue bonds for the
15 purpose of obtaining money to pay the cost of:

16 (1) acquiring property;

17 (2) constructing, improving, reconstructing, or renovating one

18 (1) or more capital improvements; or

19 (3) funding or refunding bonds issued under this chapter.

20 (b) The bonds are payable solely from the lease rentals from the
21 lease of the capital improvements for which the bonds were issued,
22 insurance proceeds, and any other funds pledged or available.

23 (c) The bonds shall be authorized by a resolution of the capital
24 improvement board.

25 (d) The terms and form of the bonds shall be set out either in the
26 resolution or in a form of trust indenture approved by the
27 resolution.

28 (e) The bonds must mature within twenty-five (25) years.

29 (f) The capital improvement board shall sell the bonds at public
30 or private sale upon the terms determined by the capital
31 improvement board.

32 (g) All money received from any bonds issued under this
33 chapter shall be applied solely to the payment of the cost of the
34 acquisition or construction, or both, of capital improvements, or
35 the cost of refunding or refinancing outstanding bonds, for which
36 the bonds are issued. The cost may include:

37 (1) planning and development of the facility and all buildings,
38 facilities, structures, and improvements related to the facility;

39 (2) acquisition of a site and clearing and preparing the site for
40 construction;

- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) If the facilities authority is acquiring land or all or a part of one (1) or more capital improvements from any person other than the capital improvement board by purchase or lease and is leasing the land or these capital improvements to the capital improvement board, with any additional improvements that may be made to them, and the capital improvement board intends to sublease the land or capital improvements to one (1) or more sublessees, the facilities authority may not issue bonds under this chapter unless the facilities authority first finds that the capital improvement board and the sublessee or sublessees have entered into a written agreement concerning the facility. This agreement must include the following provisions:

- (1) That the sublessee or sublessees must commit to assist and cooperate with the facilities authority and the capital improvement board to design and construct the facility on time and on budget.
- (2) That any of these capital improvements that are financed under this chapter must be approved by the capital improvement board. The capital improvement board shall secure the obligations of the sublessee or sublessees of the capital improvements to the capital improvement board under a sublease under this chapter with liens or security interests, which may include:
 - (A) perfected security interests in personal property;
 - (B) a mortgage lien on the real property; and

- 1 (C) any other security determined to be appropriate by the
2 capital improvement board and the facilities authority.
- 3 (3) Specifying the extent to which the sublessee or sublessees
4 shall be responsible for the operation and maintenance of the
5 capital improvements.
- 6 (4) Specifying how the retention of the revenues from the
7 operation and maintenance of the capital improvements will
8 be shared between the capital improvement board and the
9 sublessee or sublessees.
- 10 (5) That if any bonds are issued by the facilities authority
11 under this section to finance capital improvements, then on
12 the date that all these bonds are no longer considered
13 outstanding, the capital improvement board shall take the
14 legal steps required to terminate each of its security interests
15 in and mortgage liens on the capital improvements described
16 in subdivision (2).
- 17 (6) That if a controlling ownership interest in the sublessee's
18 interests in the sublease of the capital improvements is sold
19 after the facilities authority issues bonds under this section to
20 finance these capital improvements, the capital improvement
21 board shall determine whether there exists good cause not to
22 allow the purchaser to assume the sublessee's obligations
23 under the sublease and the agreement described in this
24 subsection. If the capital improvement board determines that
25 good cause does not exist, the capital improvement board is
26 considered to have accepted the purchaser's assumption of the
27 sublessee's obligations under the sublease and the agreement
28 described in this subsection, and the purchaser is considered
29 to have assumed and become obligated to fully perform those
30 obligations. If the capital improvement board determines that
31 there exists good cause not to approve the purchaser's
32 assumption of the sublessee's obligations under the sublease
33 and the agreement described in this subsection, the capital
34 improvement board is considered to have disapproved the
35 assumption and the capital improvement board may require
36 that the sublessee or sublessees of the capital improvements
37 shall pay or cause to be paid to the capital improvement
38 board an amount sufficient to pay the cost of defeasing all
39 outstanding bonds issued by the facilities authority under this
40 section to finance the capital improvements and paying all

1 expenses of the capital improvement board and the facilities
 2 authority incurred in connection with the defeasance.

3 (7) That if, in any year commencing on January 1, the
 4 aggregate of all:

5 (A) the state revenue captured by the tax area, subject to
 6 the cap set forth in section 20(c) of this chapter;

7 (B) the county innkeeper's tax collected in the tax area and
 8 otherwise to be applied to the payment of lease rentals by
 9 the capital improvement board under section 35 of this
 10 chapter;

11 (C) the county food and beverage tax collected in the tax
 12 area and otherwise to be applied to the payment of lease
 13 rentals by the capital improvement board under section 36
 14 of this chapter;

15 (D) the county admissions tax collected by or at the facility
 16 or complex of facilities that is used to hold a professional
 17 sporting event and otherwise to be applied to the payment
 18 of lease rentals by the capital improvement board under
 19 section 37 of this chapter; and

20 (E) the tax increment revenues collected and otherwise to
 21 be applied for the purpose of making the payment of lease
 22 rentals by the capital improvement board under section
 23 30(b)(9) of this chapter and subsection (i);

24 is in excess of the amount of lease rental payments due in that
 25 year, the excess shall be used to make further capital
 26 improvements to or pay the expenses of the operation and
 27 maintenance of the facility or complex of facilities that is used
 28 to hold a professional sporting event.

29 (8) Any other terms the capital improvement board
 30 determines to be appropriate.

31 (i) If the capital improvement board and the city determine that
 32 it would be appropriate that the lease rental payments by the
 33 capital improvement board are to be made from tax increment
 34 revenues collected for that purpose under IC 36-7-15.1-26 or
 35 IC 36-7-15.1-26.2 under section 30(b)(9)(B) of this chapter or that
 36 tax increment revenues collected under IC 36-7-15.1-26 or
 37 IC 36-7-15.1-26.2 are to be used to pay all or a portion of the
 38 expenses of the operation and maintenance of the facility or
 39 complex of facilities that is used to hold a professional sporting
 40 event, the city shall also be made a party to the agreement

described in subsection (h) for the purpose of ensuring that the city provides the tax increment revenues to the capital improvement board or the sublessee as provided in this subsection. The use of the tax increment revenues as provided in this subsection is hereby authorized.

Sec. 39. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the capital improvement board, the facilities authority, or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

Sec. 40. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 41. (a) The facilities authority may secure bonds issued under this chapter by a trust indenture between the facilities authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1)** pledge or assign lease rentals, receipts, and income from leased capital improvements;
- (2)** contain provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the facilities authority and the board of directors of the facilities authority;
- (3)** set forth the rights and remedies of bondholders and trustee; and
- (4)** restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the facilities authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a

pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board of directors of the facilities authority.

Sec. 42. If the capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.

Sec. 43. All:

(1) property owned by the facilities authority;
 (2) revenues of the facilities authority; and
 (3) bonds issued by the facilities authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds; are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5.

Sec. 44. The facilities authority shall not issue bonds under this chapter, unless on or before July 1, 2021, a tax area has been established under section 20 of this chapter.

Sec. 45. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
 (2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;
 whichever occurs first.

Sec. 46. Nothing in this chapter shall compel or require the facilities authority or the capital improvement board to adopt any resolution, issue any bonds or other obligations, or approve or enter into any indenture, lease, sublease, or agreement that the facilities authority or the capital improvement board in its discretion determines to not be in the facilities authority's or the capital improvement board's best interests.

Sec. 47. This chapter expires December 31, 2052.

SECTION 13. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 7 as introduced.)